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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,350	10/31/2000	Raymond E. Suorsa	033048-025	8639

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EXAMINER

PATEL, NITIN C

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/699,350

Applicant(s)

SUORSA, RAYMOND E.

Examiner

Nitin C. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

1. This is in responsive to communication filed for reconsideration on March 2, 2004.
2. Claims 1 – 28 are pending with the application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1 – 28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Woundy, US Patent 6,023,464 [cited in previous office action], and further in view of Nakagawa et al. [hereinafter as Nakagawa], US Patent 5,835,911 [cited in previous office action].

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7. As to claims 1, and 17, Woundy discloses a system and method of auto-provisioning of user terminals in wideband cable data distributed network by communicating and storing cable modem serial numbers, MAC addresses into a billing system and into a network user database such as a lightweight directory access protocol [LDAP] directory, managing a plurality of directory sub-trees with LDAP directory server, a DHCP server and an auto-provisioning web server [col. 1, lines 42 – 60, col. 2, lines 1 - 14]. However, Woundy does not teach storing of a description of software components installed on a device [user terminal] and configuration parameter values for the software components. In summary, Woundy does not teach auto-provisioning software components of user terminals.

Nakagawa teaches software distribution/maintenance system and method having a plurality of user computers and a vendor computer connected via network to manage and automatically update over the network a set of object software by storing the installed object software configuration information for the user computer and using it to maintain automatically provisioning [update version maintain] by comparing with available configuration information at vendor for the object software [col. 6, lines 16 – 67, col. 8, lines 26 – 47, and 50 – 56].

It would have been an obvious to one of an ordinary skill in art at the time of invention to combine the teachings of Woundy and Nakagawa because both are related to solve the problems in automatically provisioning of computing devices over network and Nakagawa's software distribution and maintenance system and method over a network will allow various types of software such as product software, shareware, freeware, scientific prototype software, intra-office software [col.5, lines 17 – 43, col. 6, lines 1 - 15].

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8. As to claim 2, Nakagawa discloses generation of numbers 0.1 and 0.2 at the end of the module identification names Ma and Mi using client program [CP] and server program [SP] with software management information including software name, location of software library, version type and name and sending the message to reconfigure themselves in accordance with the change in model [col. 33, lines 14 – 46, fig. 7].

9. As to claims 3, and 18, Nakagawa discloses the use of standardized communication protocols for messaging between a first process means [CP] and second process means [SP] therefore he teaches to provide the means of interface between the database [vendor] and the device [user][col. 7, lines 1 – 27].

10. As to claims 4 – 5, and 19 - 20, Nakagawa discloses the use of standardized communication protocols for messaging between a first process means [CP] and second process means [SP] therefore he teaches the use of remote procedure calls, and XML-PRC too [col. 7, lines 1 – 27, table 3].

11. As to claims 6, and 7, Nakagawa teaches the steps of recognizing a change in configuration devices [third process unit CP detects the cause and the state of the abnormal termination, and automatically sends a fault report message to vendors] modifying in accordance with the change in configuration [the fourth process unit SP records the message, reports it to software developer and correction is entered in object software library of vendor, and updated version is immediately provided for all the users][col. 23, lines 1 – 12].

12. As to claim 8, Nakagawa discloses the retrieval of the updated version of software components in response to messages [col. 55, lines 56 – 61].

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13. As to claims 9 - 11, and 21 - 23, Nakagawa discloses the retrieval of the updated version of the software therefore; he teaches to store it with required file system with category in accordance with respect to frequency of change in component too [col.55, lines 56 – 61].

14. As to claims 12 - 13, and 24 - 25, Nakagawa discloses various types of software including operating system software, and application programs [col. 4, lines 45 – 52].

15. As to claims 14, and 26, Nakagawa discloses the server program to compare data contents [abstract].

16. As to claims 15, and 27, Nakagawa discloses transmitting messages with list of commands [col. 47, table 3].

17. As to claims 16, and 28, Nakagawa discloses a level of authority [for security] using a password [col. 51, lines 55 – 61].

Response to Arguments

18. In response to applicant's argument on page 2, regarding the claimed term "provisioning" is a very broad term and is not claimed as argued on page 2, lines 13 – 17 [the term "provisioning" refers to the process by which a computing device is provided with the software that is necessary for the device to perform the functions assigned to it, e.g. a web server, and subsequent configuration of that software to optimize its operation for those functions].

19. In response to applicant's argument on page 4, regarding "storing a model for each type of device in database", Nakagawa discloses storing of model [object software library] in vendor computer [col. 6, lines 35 – 42] and configuration update is done automatically [col. 6, lines 45 – 49].

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20. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, to combine the teachings of Woundy [auto-provisioning of user equipment, abstract] and Nakagawa [to manage an object software to distribute and maintain update automatically, col. 6, lines 16 - 49] as stated in reasons to combine both references [col.5, lines 17 - 43, col. 6, lines 1 - 15].

21. Applicant's arguments filed March 2, 2004 have been fully considered but they are not persuasive with respect to response to arguments.

Conclusion

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nitin C. Patel whose telephone number is 703-305-3994. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 703-305-9717. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nitin C. Patel
March 23, 2004



THOMAS LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100